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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,710	06/30/2000	Marc Alexander Najork	18449772-0288-999	8784

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EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/607,710

Examiner

Ramy M Osman

Applicant(s)

NAJORK ET AL.

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED
Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY (check either a) or b))

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: _____
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-52.
Claim(s) withdrawn from consideration: _____.
8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Detailed Action

Part of

Advisory Action

DETAILED ACTION

Status of Claims

1. This communication is responsive to the amendment filed on November 15, 2004. No claims were amended or cancelled. Claims 1-52 are pending. The rejections stand based on the arguments presented below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-52 remain rejected under 103(a) since the arguments addressed in the response filed 11/15/2004 are not persuasive, as explained above.
4. Please refer to previous final action dated 9/9/2004 for detailed rejection under 103(a).

Response to Arguments

5. Applicant's arguments filed 11/15/2004 with respect to claims 1-52 have been fully considered but they are not persuasive.
6. Applicant is arguing that the examiner must provide reasoning to support the determination of inherency of Monier regarding the limitation "without determining whether the representation is stored in the first disk file". The previous office action states that Monier discloses determining whether the representation is stored in the hash table (buffer), and when this determination is negative, storing the representation in the hash table (buffer) (column 5 line

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43 – column 6 line 22). The inherency of the limitation “without determining whether the representation is stored in the first disk file” is because when Monier determines whether the representation is stored in the hash table (buffer), Monier does not also determine whether the representation is stored in the first disk file.

7. Applicant is arguing that Najork ‘614 does not teach an ordered merge that comprises preventing duplication of any of the representations of data set addresses. However, Najork ‘614 does disclose a merging process as mentioned in the prior office action (column 3 line 30 – column 4 line 45 and column 6 line 1 – column 7 line 25) (see also figure 4). Najork ‘614 also discloses wherein the merging process involves preventing duplication (column 3 line 30 – column 4 line 45 and column 6 line 1 – column 7 line 25) (see also figure 4). As stated in the previous office action, it is irrelevant when the duplicate prevention takes place since the claim language doesn’t explicitly specify when. The usage of the term ‘comprises’ does not delimit a time period.


Applicant argues that it is thus not necessary to modify the claim language to say preventing duplication after merging. However, this limitation is not found in the claims which leaves the claim language broad, and renders the claim broadly interpreted. Claimed subject matter, not the specification, is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
December 29, 2004


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100